

Exhibit A

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Heidi Percy
County Clerk
Snohomish County, WASH
Case Number: 23-2-03535-31

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN THE COUNTY OF SNOHOMISH

HERMAN PEEPLES as Personal Representative
of the Estate of Antonio Fritz, Deceased, and on
behalf of the Beneficiaries of the Estate,

Plaintiff,

v.

PERRIGO COMPANY PLC, a foreign
corporation, PERRIGO COMPANY, a Michigan
corporation, CATALENT PHARMA
SOLUTIONS, INC., a Delaware corporation,
CATALENT PHARMA SOLUTIONS, LLC, a
Delaware limited liability company, and
PADAGIS, LLC, a Delaware limited liability
company, PADAGIS MICHIGAN LLC, a
Michigan limited liability company, and JOHN
DOES 1-50,

Defendants.

No. 23-2-03535-31

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

COMES NOW, Plaintiff HERMAN PEEPLES, as the Personal Representative of the
Estate of Antonio Fritz, and on behalf the Estate of Antonio Fritz, and alleges as follows:

I. NATURE OF ACTION

1. This is a wrongful death, survival, and injury action brought by Herman Peeples, as Personal Representative of the Estate of Antonio Fritz who died of respiratory failure on June 18, 2020. Herman Peeples brings this case on behalf of the beneficiaries of the Fritz Estate. Upon information and belief, Mr. Fritz's Perrigo Albuterol Sulfate Inhaler, NDC 45802-088-01, UPC 345802088017, failed to deliver him the medication that would have saved his life.

2. On or about September 17, 2020, Perrigo Pharmaceuticals issued a recall notice to customers of all Albuterol Sulfate Inhalation Aerosol. The recall was conducted "due to complaints indicating that some units may not dispense due to clogging."¹

II. PARTIES, JURISDICTION, AND VENUE

3. Plaintiff Herman Peeples ("Plaintiff") is the duly appointed Personal Representative of the Estate of Antonio Fritz, deceased. Plaintiff Herman Peeples brings this action pursuant to the Wrongful Death, Survival, and Special Survival statutes of the State of Washington, in his capacity as Personal Representative of the Estate of Antonio Fritz on behalf of all relatives of Antonio Fritz who have legally cognizable claims for wrongful death. Plaintiff Herman Peeples is and was at all material times a resident of Elgin, Kershaw County, South Carolina.

4. Defendant Perrigo Company is a Michigan corporation. Its registered agent for service of process is currently listed as CSC-Lawyers Incorporating Service, 3410 Belle Chase Way Ste. 600, Lansing, Michigan 48911.

5. Defendant Perrigo Company PLC is a foreign corporation organized and existing under the laws of Ireland and maintains a headquarters in Dublin, Ireland. The Perrigo Company PLC maintains a primary operating headquarters in the United States at 515 Eastern Avenue, Allegan, Michigan 49010. Perrigo Company PLC conducts substantial business in the United States and Washington State, and upon information and belief, the vast majority of its sales are in the United States. Defendant Perrigo Company PLC is the parent company of numerous Perrigo

¹ <https://www.perrigo.com/press-release/albuterol-sulfate-recall-information>, last visited 4/18/23.

1 entities, including Defendant Perrigo Company (“Perrigo Defendants”).

2 6. Defendant Catalent Pharma Solutions, LLC and Defendant Catalent Pharma
3 Solutions, Inc. (“Catalent Defendants”) are, respectively, a foreign limited liability company and
4 a foreign corporation organized and existing under the laws of Delaware with their principal
5 place of business in Somerset, New Jersey.

6 7. Defendant Padagis, LLC is a foreign limited liability company organized and
7 existing under the laws of Delaware with its principal place of business in Allegan, Michigan.
8 Defendant Padagis Michigan LLC is a foreign limited liability company organized and existing
9 under the laws of Michigan, which was converted from Perrigo Pharmaceuticals Company on
10 July 7, 2021. Upon information and belief, Defendant Padagis, LLC is the parent company for
11 various entities, including Defendant Padagis Michigan LLC (“Padagis Defendants”).

12 8. On information and belief, the Perrigo Defendants, the Catalent Defendants, and
13 the Padagis Defendants are, and at all relevant times were, engaged in the business of
14 researching, developing, designing, licensing, manufacturing, distributing, supplying, selling,
15 marketing, and/or introducing into interstate commerce, including in the State of Washington,
16 either directly or indirectly through third parties or related entities, its products, including the
17 Perrigo Albuterol Sulfate Inhaler prescribed to Antonio Fritz.

18 9. At all times relevant hereto, the name “Perrigo” included and includes any and all
19 parents, subsidiaries, affiliates, divisions, franchises, partners, joint ventures, and organizational
20 units of any kind, their predecessors, successors, and assigns and their officers, directors,
21 employees, agents, representatives, and any and all other persons acting on their behalf.

22 10. Defendants Does 1-10, whose names and whereabouts are presently unknown,
23 contributed to the design, manufacture, sale, instructions, and use of the Perrigo Albuterol
24 Sulfate Inhaler prescribed to Antonio Fritz.

25 III. JURISDICTION AND VENUE

26 11. Venue is proper in this Court because Decedent was at all material times a
27 resident of Mountlake Terrace, Snohomish County, Washington.

28 12. The Court is authorized to exercise personal jurisdiction over Defendants pursuant

1 to Washington's Long-Arm Statute, RCW §§ 4.28.185(1)(a) and (1)(b) because Defendants
2 transacted business within the State of Washington and committed a tortious act within the State
3 of Washington. In addition, Defendants received substantial compensation and profits from sales
4 of its products, made material omissions and misrepresentations and breaches of warranties, and
5 engaged in substantial activity within the State of Washington.

6 13. The injuries and damages alleged in this lawsuit arise out of, and are related to,
7 Defendants' contacts with and activities in the State of Washington.

8 14. Consistent with the Due Process Clause of the Fifth and Fourteenth Amendments,
9 this Court has personal jurisdiction over Defendants because Defendants' presence in the State of
10 Washington is such that requiring an appearance does not offend traditional notions of fair play
11 and substantial justice.

12 IV. FAILURE TO DISPENSE MEDICINE

13 15. On June 12, 2020, Antonio Fritz filled a prescription for Perrigo's Albuterol
14 Sulfate Inhaler to help control his asthma.

15 16. Albuterol sulfate is used for the treatment and prevention of asthma attacks by
16 opening the airways by relaxing the surrounding muscles, making it easier to breathe. Inhalers
17 such as Perrigo's Albuterol Sulfate Inhaler are also known as rescue inhalers because they
18 provide quick relief for breathing problems caused by bronchospasm, such as asthma. The drug
19 should improve breathing within minutes after use and should last several hours.

20 17. On the morning of June 18, 2020, Antonio Fritz started having severe asthma
21 symptoms. Caitlin Gomez, Antonio Fritz's fiancé, drove him to the hospital. Antonio tried to
22 use the Perrigo Albuterol Sulfate Inhaler to relieve his symptoms at home and en route to the
23 hospital by using his inhaler over and over, but it failed to deliver medicine as needed. As a
24 result of this failure, during the drive to the hospital, Antonio Fritz went into cardiac arrest. He
25 was transported to the hospital by South Snohomish County Fire and Rescue. On June 18, 2020,
26 Antonio Fritz died of acute respiratory failure and exacerbation of chronic bronchial asthma.

27 18. Defendant Perrigo, in partnership with the Catalent Defendants, designed,
28 manufactured, and sold the Perrigo Albuterol Sulfate Inhaler NDC 45802-088-01, UPC

345802088017, a product which promised to deliver medication into the body through the airway and lungs to treat asthma and other conditions. Upon information and belief, Perrigo's pharmaceutical division was purchased and subsumed by Defendant Padagis.²

19. Many different manufacturers sell inhalers with similar albuterol delivery systems on the market.

20. Defendants marketed and sold the Perrigo Albuterol Sulfate Inhaler specifically to treat asthma.

21. Defendants' product was targeted to patients such as Antonio Fritz, who suffered from asthma.

22. At all relevant times, Defendants engaged in the business of placing the Perrigo Albuterol Sulfate Inhaler into the stream of commerce by designing, manufacturing, marketing, packaging, labeling, and/or selling such devices, including the product Antonio Fritz attempted to use prior to his death.

23. On September 18, 2020, Perrigo Pharmaceuticals issued a press release that had halted production and distribution of the Perrigo Albuterol Sulfate Inhaler and was issuing a recall of the devices.³ On September 21, 2020, the U.S. Food and Drug Administration issued an alert to health care professionals and patients of the recall of all unexpired albuterol sulfate inhalation aerosol manufactured by Catalent Pharma Solutions for Perrigo Pharmaceutical Company due to possible clogging of the inhaler.⁴

V. CAUSE OF ACTION UNDER THE WASHINGTON PRODUCT LIABILITY ACT (ALL DEFENDANTS)

24. Plaintiff realleges and incorporates by reference every allegation of this Complaint as if each were set forth fully and completely herein.

25. At all relevant times, Defendants were engaged in the business of designing,

² <https://www.padagis.com/>, last visited 4/18/23.

³ <https://www.perrigo.com/press-release/albuterol-sulfate-recall-information>, last visited 4/18/23.

⁴ <https://www.fda.gov/drugs/drug-safety-and-availability/fda-alerts-perrigos-voluntary-albuterol-inhaler-recall>, last visited 4/18/23.

1 manufacturing, assembling, marketing, testing, delivering, and selling the subject Perrigo inhaler
2 as well as issuing instructions, warnings, and cautions for the inhaler.

3 26. At all times, Defendants held final design approval authority for the subject
4 Perrigo inhaler, and customers and patients relied upon the design specifications, instructions,
5 testing procedures, warnings and cautions of the Defendants.

6 27. Defendants created a defective and unsafe condition in the subject Perrigo inhaler
7 in that the design, manufacture, and assembly of the product were unreasonably dangerous, and
8 Defendants failed to issue proper and adequate cautions and warnings.

9 28. Defendants created a defective and unsafe condition in the subject Perrigo inhaler
10 in that it was assembled in a matter inconsistent with its specifications and intended uses in that
11 it could not deliver the medicine to Mr. Fritz.

12 29. The Perrigo inhaler did not perform, for Antonio Fritz, in the manner an ordinary
13 user would reasonably expect.

14 30. This action is brought pursuant to the Washington Product Liability Act, Chapter
15 RCW 7.72. Plaintiff alleges each cause of action enumerated in RCW 7.72 including, but not
16 limited to strict liability, negligence, breach of express or implied warranty, failure to warn,
17 failure to properly instruct, misrepresentation, and nondisclosure and/or negligent and defective
18 design, assembly, and manufacture.

19 31. The death of Antonio Fritz described above was the direct and proximate result of
20 the tortious acts and omissions and conduct of Defendants.

21 32. As a direct and proximate result of the tortious acts and omissions and conduct of
22 Defendants, Plaintiff has sustained injuries and damages.

23 VI. DAMAGES

24 33. Plaintiff realleges and incorporates by reference every allegation of this
25 Complaint as if each were set forth fully and completely herein.

26 34. As the direct and proximate cause of the June 18, 2020 product failure previously
27 described, Plaintiff suffered damages, pursuant to RCW 4.20.060 and RCW 4.20.020, including
28 but not limited to the following:

1 a. General damages for the beneficiaries of the Estate, including but not limited to
2 loss of care, comfort, love, support, society, companionship, and advice;

3 b. Special damages for loss of economic support for the beneficiaries of the
4 Estate; and

5 c. Special damages for the medical expenses, funeral, and burial expenses and
6 other miscellaneous expenses occasioned by the death of Antonio Fritz.

7 35. As the direct and proximate cause of the June 18, 2020 product failure previously
8 described, Plaintiff Antonio Fritz's estate suffered damages, including but not limited to the
9 following:

10 a. General damages and special damages for the personal injury to Antonio Fritz
11 which occasioned his death, for his awareness, anticipation, and fear of impending doom; pre-
12 death pain and suffering; loss of enjoyment of life; destruction of the parent-child relationship;
13 and loss of consortium.

14 b. Special damages for the destroyed earning capacity, economic damages, and net
15 losses to the Estate of Antonio Fritz occasioned by his premature death; and

16 c. Any and all other special and general damages allowed by law, all in an amount to
17 be proven at trial.

18 VII. JURY DEMAND

19 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiffs demand trial
20 by jury in this action of all issues so triable.

21 VIII. PRAYER FOR RELIEF

22 WHEREFORE, Plaintiff prays for entry of judgment against Defendants and an award of
23 the following damages:

- 24 1. For general and special damages recoverable under Washington state law or any
25 other applicable law, in an amount to be proven at trial;
- 26 2. Reasonable attorneys' fees;
- 27 3. The costs of these proceedings; and
- 28 4. For such other further relief that the Court may deem just and equitable.

1 DATED this 11th day of May, 2023.

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5 By: _____
6 Peter J. Mullenix, WSBA# 31717

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9 By: _____
10 Rachel M. Luke, WSBA# 42194

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